

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7440

Petition of Entergy Nuclear Vermont Yankee,)
LLC, and Entergy Nuclear Operations, Inc., for)
amendment of their Certificates of Public Good)
and other approvals required under 10 V.S.A.)
§§ 6501-6504 and 30 V.S.A. §§ 231(a), 248 &)
254, for authority to continue after March 21,)
2012, operation of the Vermont Yankee Nuclear)
Power Station, including the storage of spent-)
nuclear fuel)

Order entered: 10/1/2008

ORDER RE: MOTION TO RECONSIDER GREENBERG INTERVENTION

On September 5, 2008, the Public Service Board ("Board") issued the Second Order Re: Interventions in this docket. In that Order, we denied the intervention request submitted by Mr. John Greenburg. We concluded that Mr. Greenberg had not demonstrated a substantial interest in the outcome of this proceeding that was not represented by other parties. Accordingly, we concluded that he had failed to meet the criteria for intervention under Board Rule 2.209(B).

On September 15, 2008, Mr. Greenberg filed a Motion to Reconsider that Order. Mr. Greenberg asserts that all persons within the "plant's penumbra" share a common substantial, not "generalized" interest in that they all could lose their homes and property. He asserts that this proximity is not shared by any other parties in the case, so that his interest cannot be adequately protected. In addition, he asserts that he has not raised any issues of radiological safety, but rather brought to the Board's attention the ever-present risk of a catastrophic accident. In addition, he asserts that his interest is in having the Board assess the economic consequences of such an accident. Mr. Greenberg contends that, notwithstanding the preemption of state authority over issues of radiological safety, the Board retains jurisdiction to consider the economic consequences, including issues of need, reliability, and cost, which he states are his concerns.

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (jointly, "Entergy VY") oppose Mr. Greenberg's Motion. Entergy VY argues that Mr. Greenberg's motion does not raise any issues that the Board did not address in the Second Order. Entergy VY maintains that Mr. Greenberg effectively asks the Board to consider radiological safety issues.

We recognize that Mr. Greenberg and many other residents of Vermont reside within 15 miles of the Vermont Yankee Nuclear Power Station ("Vermont Yankee"); many of these residents have concerns about Vermont Yankee as we have heard during public hearings. However, as we said in the Second Order Re: Interventions, this proximity alone does not establish the substantial interest required for Mr. Greenberg (or each of those other residents) to be granted permissive intervention. Mr. Greenberg's new motion does stress his interest in need, reliability, and cost, which he correctly identifies as issues within the Board's purview. Certainly, we would expect to consider all three of these issues in this proceeding. But Mr. Greenberg does not explain how his interest in the outcome of this proceeding and the resolution of these issues is substantial *and* different from other persons within a similar radius of Vermont Yankee or in Vermont generally. In addition, Mr. Greenberg has not demonstrated that his interests are not adequately represented by the existing parties, including the Department of Public Service. As a result, we conclude that he has not met the criteria for intervention under Board Rule 2.209(B).

SO ORDERED.

Dated at Montpelier, Vermont, this 1st day of October, 2008.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: October 1, 2008

ATTEST: s/Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.